Office Action Summary	Application No.	Applicant(s)	
	10/585,394	PRENTNER ET AL.	
	Examiner	Art Unit	
	MATTHEW W. ING	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 April 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 4-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 4-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20100513* .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/23/10 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The term "relatively" in claim 9 is a relative term which renders the claim indefinite. The term "relatively" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

5. The term "roughly" in claim 10 is a relative term which renders the claim indefinite. The term "roughly" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1, 4-9 & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) in view of Kovarik (5,344,228). Sekerich teach(es) the structure substantially as claimed, including a control roller (18) having a central body (52) and a soft body (50). The only difference between Sekerich and the invention as claimed is that Sekerich fail(s) to clearly teach a central body being a hard body. Kovarik, however, teaches making the central body of a roller a hard body; see col. 5, lines 10-13. It would have been obvious to one of ordinary skill in the art to make the central body of Sekerich a hard body, as suggested by Kovarik, in order to provide structural reinforcement to said roller, and to facilitate rolling by preventing the spindle of said roller from being compressed by said central body during compression of said roller, thereby providing the structure substantially as claimed.

8. Regarding claim 1, Sekerich teaches a carcass rail (16) for attachment to a carcass, a pull-out rail (12) for attachment to the drawer, a central rail (14) arranged between the carcass rail and the pull-out rail, wherein the central rail is displaceable relative to the carcass rail and relative to the pull-out rail, during pulling-out and pushing-in operations of the drawer, and a control roller (18) mounted rotatably about an axis on the central rail and in engagement with the carcass rail and with the pull-out rail; wherein the control roller comprises a bearing part including a central body (52) and a soft body (50), wherein the soft body at least in part projects in a radial direction relative to the hard body, and the soft body extends over only part of an axial extent of the hard body, and, wherein the control roller mounted rotatably on the central rail serves exclusively for

synchronizing a position and movement of the central rail with the pulling-out and pushing-in operations of the drawer. See col. 1 lines 6-8 & 38-39 (describing the roller of Sekerich as a "progressive roller" for "caus[ing] progressive movement of the rails"). Since the carcass rail (16) and pull-out rail (12) are mounted to cabinet and drawer, respectively, it follows that the load imposed by said drawer is carried by said carcass rail via said central & pull-out rails; and that, therefore, said control roller does not serve as a load-bearing device. This is further suggested by the fact that the control roller of Sekerich is easily replaceable without disassembly of said rails or removal of said drawer (col. 5, lines 10-23).

9. Regarding claim 4, Sekerich teaches a soft body (50) arranged in a region of an axial end side of the control roller (18).

10. Regarding claim 5, Sekerich teaches a control roller (18) comprises a two-component construction (50, 52).

11. Regarding claim 6, Sekerich as modified teaches a hard body (52) and the soft body (50) comprise two separate components which are assembled before mounting of the control roller (Fig. 16).

12. Regarding claim 7, Sekerich teaches a soft body (50) arranged between a shoulder (smaller diameter end of 52, on the left side of Fig. 9) of the hard body and a bearing plate (larger diameter end of 52, on the right side of Fig. 9) of the control roller.

13. Regarding claim 8, Sekerich teaches a soft body (50) fixed between a shoulder (smaller diameter end of 52, on the left side of Fig. 9) of the hard body and a retaining washer (larger diameter end of 52, on the right side of Fig. 9).

14. Regarding claim 9, although Sekerich fails to clearly teach a spindle having a non-circular cross-section, the examiner takes official notice that changing the shape of a spindle is well known in the art, as evidenced by the abstract of Sharp (4,066,219), Fig. 3 of McIntosh (6,352,239), and par. 30 of Grebonval (2005/0139719). With regard to the orientation of said spindle, it is noted that mere rearrangement of the essential working parts of a device has been held to involve only routine skill in the art. As such, it therefore would have been an obvious design consideration to one of ordinary skill in the art to modify the spindle of Sekerich, by giving said spindle a non-circular cross-section whose larger diameter was oriented in a pull-out direction of the pull-out guide, depending on the desired needs of the person constructing the drawer slide (e.g., intended use of the drawer slide, aesthetic considerations, compactness, ease of manufacture, etc.), thereby providing the structure substantially as claimed.

15. Regarding claim 11, Sekerich teaches a control roller (18) mounted on a spindle (58) and the spindle is mounted on a holding device (56) snap-connected (via 64) to the central rail.

16. Claims 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sekerich (4,737,039) & Hutzelman (2,873,150) as applied to the claim(s) above, further in view of Crescenzi (4,120,071). Sekerich & Hutzelman teach(es) the structure substantially as claimed, including a control roller (18) mounted on a spindle (58). The only difference between Sekerich & Hutzelman and the invention as claimed is that Sekerich & Hutzelman fail(s) to teach a control roller snapped onto a bearing spindle. Crescenzi, however, teaches mounting a roller (13) to a spindle (24) via a snap-connection therebetween. It would have been obvious to one of ordinary skill in the art to substitute a connecting means, as taught by Crescenzi, for that of Rock as

modified, in order to prevent extraneous movement by said roller while attached to said spindle; thereby providing the structure substantially as claimed.

Allowable Subject Matter

17. Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

18. Applicant's arguments filed 4/23/10 with respect to claims 1 & 4-12 have been fully considered but they are not persuasive.

19. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

20. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. In this case, motivation to combine can be found in col. 2, lines 70-71 & col. 3, lines 40-49 of Hutzelman, which teaches the inclusion of a

soft body upon the hard body of a bearing part in order to "provide traction", reduce wear, and "preclud[e] the possibility of objectionable noise".

21. In response to applicant's argument that "Applicant's new and beneficial result is to establish frictional engagement on the opposite side of the roller", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. Moreover, the presence of frictional engagement upon the bottom of the roller in Hutzelman is not an inherent to said roller, but is rather the byproduct of said roller's position relative to the rails of Hutzelman. Whereas the rollers of both Rock and FR2,441,086 are contacted by rails upon both the top & bottom ends thereof, it is therefore reasonable to conclude that modification of Rock or FR2,441,086 in view of Hutzelman would produce a structure wherein a roller established frictional engagement on both sides thereof.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Janet M. Wilkens/
Primary Examiner, Art Unit 3637

MWI
5/19/10